

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 427 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

BHIKHABHAI HIRABHAI VASAVA

Appearance:

MR HARDIK C RAWAL for Petitioner
RULE SERVED BY DS for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 02/05/2000

ORAL JUDGEMENT

Learned advocate Mr. H.C. Rawal is appearing on behalf of the petitioner Corporation. Though Rule has been served, no one appeared on behalf of the respondent. In the present petition, the award passed by the Labour

Court, Baroda in Reference No. 483 of 1994 dated 19th August, 1999 has been challenged wherein the Labour Court has granted reinstatement with continuity of service without backwages of interim period with stoppage of three increments without cumulative effect.

2. The brief facts of the present petition is that the respondent was working since many years with the Corporation as a Conductor. On 25.12.1992, when the respondent workman was on route from Padra to Chota Udepur, his bus was checked by Checking Staff at Akshar Chowk near Baroda wherein the allegation was made against the respondent workman that from one passenger travelling from Padra to Chota Udepur, he recovered the amount of fare of Rs.21.50/- and issued a ticket of Rs.20/- which was reissued by him. On the basis of the said allegation, the chargesheet No.31 of 1993 was served to the respondent workman and thereafter, the departmental inquiry was initiated against him and ultimately he was dismissed from service on 12.03.1994. The said dismissal order was challenged by the respondent workman before the Labour Court in Reference No.483 of 1994. Before the Labour Court, the statement of claim was filed by the respondent workman and a written statement was submitted by the petitioner Corporation. The petitioner Corporation has produced documentary evidence before the Labour Court and vide Exhibit 10, the respondent workman has submitted purshis wherein he admitted the legality and validity of the inquiry. Thereafter, the other side has not laid any oral evidence before the Labour Court. Thereafter, the Labour Court has examined the merits of misconduct and came to the conclusion that considering the facts and circumstances of the case and the allegation against the respondent workman that one ticket was reissued by him, the punishment of dismissal is found to be harsh and unjustified by the Labour Court while exercising the powers under Section 11A of the ID Act, 1947. Therefore, the Labour Court has exercised discretionary powers and granted reinstatement with continuity of service and denied the backwages of interim period which comes to about 5 years and imposed the penalty of stoppage of three increments without cumulative effect. The said award is challenged in the present petition.

3. Mr. Rawal appearing on behalf of the petitioner Corporation submitted that the workman concerned has reissued one ticket and collected the fares from the passengers. He further submitted that the Labour Court has committed gross error in granting reinstatement and the Labour Court has not given a proper reason in support

of its conclusion. Therefore, the award passed by the Labour Court is required to be set aside.

4. I have considered the submission of Mr. Rawal.

Looking to the award passed by the Labour Court and considering the contentions of both the parties before the Labour Court with documents produced by the petitioner Corporation vide Exhibit 9, immediately the respondent workman has submitted purshis admitting the legality and validity of inquiry and none of the parties has laid any oral evidence before the Labour Court and considering this fact, the Labour Court has passed an order of reinstatement without backwages of interim period with some punishment. According to my opinion, it is an agreed order outside the court between the parties or between the advocates. Therefore, the Labour Court has not given elaborate reasons in support of its conclusion and passed a short order granting reinstatement denying the 5 years' backwages with some punishment. Therefore, the question is whether the order of reinstatement which has been passed by the Labour Court is right or wrong. According to my opinion, when there is nothing against the respondent workman in respect to past incidents and Mr. Rawal is not able to point out any past history of the respondent workman then in the past, some of the misconduct has been committed by the respondent workman. In the absence of the above record, if it is considered to be a first incident of one ticket wherein the allegation was that he reissued the tickets of Rs.20/- to the passengers but there is nothing on record to show whether cash was checked by Checking Staff at the time of checking. If suppose the respondent has reissued the ticket then a natural result will be that the cash must have to be found excess. There is nothing on record produced by the petitioner Corporation and therefore, considering these aspects when a Labour Court has denied almost 5 years' backwages by way of penalty and imposing the penalty of stoppage of 3 increments without cumulative effect, meaning thereby that the Labour Court has applied their mind while passing the award. However, Mr. Rawal submitted that the punishment of stoppage of three increments without cumulative effect, in fact, is no punishment because after three years, he will be entitled to the increments regularly and all the three increments will be released after the period of three years. So, it is not a serious punishment considering the serious misconduct committed by the respondent workman. Mr. Rawal is right to that effect and therefore, the punishment which has been imposed by the Labour Court i.e. stoppage of three increments without cumulative effect is required to be

modified to the effect that instead of three increments without cumulative effect, the punishment of stoppage of three increments with cumulative effect may be continued till the retirement of the respondent workman. Therefore, according to my opinion, the present award is required to be modified as under:-

"The petitioner is directed to reinstate the respondent workman in service with continuity but without backwages of interim period with stoppage of three increments with permanent effect."

The present petition is partly allowed. The award passed by the Labour Court, Baroda in Reference No.483 of 1994 dated 19.08.1999 is modified as above. Rule made absolute to that extent. However, it is directed to the petitioner Corporation to implement the said award within a period of 8 weeks from the date of receiving the certified copy of the said order.

(H.K. RATHOD, J.)

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